

**BEFORE THE  
NATURAL RESOURCES COMMISSION  
OF THE  
STATE OF INDIANA**

**IN THE MATTER OF:**

<b>AMENDMENTS TO 312 IAC 8, TO</b>	<b>)</b>	<b>Administrative Cause</b>
<b>TO ADDRESS MANAGEMENT OF NATURE</b>	<b>)</b>	<b>Number 12-001N</b>
<b>PRESERVES AND OTHER PROPERTIES</b>	<b>)</b>	
<b>MANAGED BY THE DNR</b>	<b>)</b>	<b>(LSA Document #12-218(F))</b>

**REPORT ON RULE PROCESSING, PUBLIC HEARING, WRITTEN  
COMMENTS, AND HEARING OFFICERS ANALYSES AND RECOMMENDATION**

**1. RULE PROCESSING**

For consideration as to final adoption are amendments proposed 312 IAC 8, which governs the use of the Department of Natural Resources properties, to address the management of nature preserves and other properties managed by the Division of Nature Preserves. The Commission gave preliminary adoption to the rule amendments on March 20, 2012. As reported in the pertinent portions of the March 20 minutes:

John Bacone also presented this item. Bacone said the amendments would allow the Division of Law Enforcement to enforce 312 IAC 8 for property owned and managed by the Division of Nature Preserves but not yet dedicated. The amendments would also require landowner consent before the Commission or the DNR approves entrance fees and locations, or special use permits, on properties dedicated as nature preserves but not owned by the State of Indiana.

Robert Wright moved to approve the amendments to 312 IAC8 as recommended by the Division of Nature Preserves. R.T. Green seconded the motion. Upon a voice vote, the motion carried.

The "Notice of Intent" for the proposed amendments was posted to the INDIANA REGISTER at 20120502-IR-312120218NIA on May 2, 2012. The notice identified John Bacone, Director of the Division of Nature Preserves, as the "small business regulatory coordinator" for purposes of Indiana Code § 4-22-2-28.1.

As specified by Executive Order, proposed fiscal analyses of the rule proposal were submitted, along with a copy of the proposed rule language and a copy of the posted Notice of Intent, to the Office of Management and Budget on May 7, 2012. In a letter dated June 6, 2012, Adam M. Horst, Director, Office of Management and Budget, recommended that the fiscal analyses for the proposed amendments be approved.

The Division of Hearings submitted the rule proposal to the Legislative Services Agency, along with the “Statement Concerning Rules Affecting Small Business” (also known as the “Economic Impact Statement”), on June 8, 2012. The Notice of Public Hearing was submitted to the Legislative Services Agency on June 12, 2012. On June 20, 2012, the following were posted to the INDIANA REGISTER: the text of the proposed rule at 20120620-IR-312120218PRA; the notice of public hearing along with the justification statement (IC 4-22-2-24(d)(3)) at 20120620-IR-312120218PHA; and the Economic Impact Statement at 20120620-IR-312120218EIA.

Following receipt of an “Authorization to Proceed” from the Legislative Services Agency on June 12, 2012, the Division of Hearings caused a Notice of Public Hearing to be published by the Indianapolis Newspapers in the Indianapolis *Daily Star*, a newspaper of general circulation in Marion County Indiana, on June 18, 2012. In addition, the notice of the public hearing and a summary of the proposed rule changes were posted on the Commission’s web-based electronic calendar and the online rule docket at <http://www.in.gov/nrc/2377.htm>.

The Statement Concerning Rules Affecting Small Businesses (the “EIS”), as required under IC 4-22-2.1-5, and posed to the INDIANA REGISTER, in pertinent part, follows:

## **TITLE 312 NATURAL RESOURCES COMMISSION**

### **Economic Impact Statement LSA Document #12-218**

#### **IC 4-22-2.1-5 Statement Concerning Rules Affecting Small Businesses**

##### **Estimated Number of Small Businesses Subject to this Rule:**

This rule will be applicable to approximately 25 not-for-profit land trusts, city and county park departments, and colleges and universities who own state dedicated nature preserves. No small businesses are subject to this rule.

##### **Estimated Average Annual Reporting, Record Keeping, and Other Administrative Costs Small Businesses Will Incur for Compliance:**

There is no annual reporting, record keeping, or administrative costs associated with this proposed rule.

**Estimated Total Annual Economic Impact on Small Businesses to Comply:**

None.

**Justification Statement of Requirement or Cost:**

Not applicable.

**Regulatory Flexibility Analysis of Alternative Methods:**

None.

The EIS indicates the proposed amendment would “be applicable to approximately 25 not-for-profit land trusts, city and county park departments, and colleges and universities who own state dedicated nature preserves. No small businesses are subject to this rule.” Review by the Indiana Economic Development Corporation was not required based on DNR’s economic analyses.

## 2. PUBLIC HEARING AND WRITTEN COMMENTS

The public hearing was convened as scheduled on July 20, 2012. In attendance from the Division of Nature Preserves were John Bacone, Director; and Lee Casebere, Assistant Director. Also present were Cliff Chapman with the Indiana Land Protection Alliance, and Jason Kissel, ACRES Land Trust.

Jason Kissel said properties are dedicated through IC § 14-31-1 (sometimes referred to as “the Nature Preserve Act”). The Department’s master plan for a dedicated nature preserve “outlines what we can and can’t do on the properties. We all go through the master plan with a fine-tooth comb and get everything exactly how we want it to make sure the property is preserved.” He noted that the Articles of Dedication within the Master Plan causes all dedicated properties to be subject to IC 14-31-1 and 312 IAC 8. “Several things caused concern—one being DNR’s ability to put a booth on the property and start charging admission to our property. We don’t gain from that. The DNR also has the authority to establish hunting without our approval.” Kissel said that ACRES Land Trust is “really appreciative” and “in great favor” of the proposed amendments. “Not only does it fix these two problems, it really helps keep land trusts interested in dedicating properties.”

Kissel added the Department was preparing for the dedication of its 250<sup>th</sup> property. “If these things don’t get fixed, all of the sudden we’re not as excited about dedicating these properties because we give up too much control just by getting that designation.... I think, really, beyond

these two issues it helps keep the credibility of the Nature Preserve Act high. We are in full support of the proposed amendments as a local land trust.”

Cliff Chapman stated that the proposed rule amendments were presented during the spring 2012 meeting of the Indiana Land Protection Alliance. “The proposed rule amendments were received very well. I am kind of here representing all the land trusts in the State of Indiana. As this is presented, we are in full support.”

During the public hearing there was discussion regarding other concerns the land trusts have with existing language within 312 IAC § 8. The additional concerns may be beyond the published scope of this rule amendment proposal. These concerns are further enumerated in Section 3 of this report.

Written comments were received though the Commission’s online comment form accessible at <http://www.in.gov/nrc/2377.htm>. The comment period closed end of day July 20, 2012.

Comments were submitted as follows:

<p><b>Commenter Name</b> Thomas Laycock  <b>City</b> Indianapolis <b>County</b> 49 <b>State</b> IN  <b>Organization (optional)</b> Indiana DNR  <b>Comments</b> Most of these issues also apply to DNR as holder of Conservation Easements over property not owned by the State. Under 312 IAC 8-1-4-3 these CE properties would fall under "easements to the State or managed by the department" and therefore be defined as "DNR property". DNR is the holder of numerous easements and CE's over non-nature preserve administered properties.  There are also potential issues related to properties where DNR holds only a partial ownership interest. I can think of four properties that DNR only owns a 50%, or less, interest in.  <b>Comment Received</b> 4/9/2012 8:22:35 AM</p>
<p><b>Commenter Name</b> John Lawrence  <b>City</b> Bloomington <b>County</b> 53 <b>State</b> IN  <b>Organization (optional)</b> Sycamore Land Trust  <b>Comments</b> Sycamore Land Trust the fee title owner of one currently state-dedicated nature preserve, Bean Blossom Bottoms Nature Preserve, and has fee title to two more properties that will soon be dedicated as well. When Bean Blossom Bottoms was dedicated, SLT never anticipated that DNR would be given the authority to collect entrance fees or change the agreed-upon use limitations without SLT's consent- and I understand the DNR did not expect that authority, either.   This rule simply corrects language that was mistakenly too broad. By doing so, the change also encourages private landowners, including but not limited to land trusts, to continue to partner with DNR and DNP to preserve Indiana's most significant natural areas.   This is an important rule change, and I strongly support its adoption.   John Lawrence  Assistant Director   Sycamore Land Trust  PO Box 7801  Bloomington, IN 47407-7801  (812) 336-5382 x105  www.sycamorelandtrust.org  <b>Comment Received</b> 5/3/2012 6:50:51 AM</p>

### 3. HEARING OFFICERS ANALYSES, RECOMMENDATION, AND SUGGESTION

“DNR property”<sup>1</sup> means land and water where “(1) the department has ownership; (2) the department holds a lease, easement, or license; (3) a dedication was made under IC 14-31-1; and (4) the department manages the property.” 312 IAC § 8-1.5-6(a)

The proposed amendments to 312 IAC § 8 would provide for any nature preserves not owned by the State of Indiana, the fee owner’s written consent would be required before the Commission may set any fees, establish entrance and exit sites, authorize hunting, or make similar conditions on usage. The amendments would also clarify that restrictions on public usage of a nature preserve would apply to properties owned by the State of Indiana and managed by the Division of Nature Preserves but not yet dedicated as a nature preserve.

Under IC§14-31-1-14(1) and (4), the Department “shall... formulate policies for the selection, acquisition, use, management, and protection of nature preserves”, and “determine, supervise, and control the management of nature preserves and adopt and amend rules necessary or advisable for the use and protection of nature preserves.” The Department and local land trusts support the proposed amendments to 312 IAC § 8-1-3, 312 IAC § 8-2-3, and 312 IAC § 8-2-10, as posted to the *Indiana Register*. The proposed amendments would reinforce the cooperative efforts between Indiana’s land trusts and the Department.

Thomas Laycock suggested that DNR properties consisting of easements over real estate not owned by the State of Indiana, in addition to dedicated nature preserves, should also recognize the interests of fee ownership similarly to what would result from the amendments under consideration. The two circumstances seem analogous, and Laycock’s suggestion may have merit. But throughout the rule adoption process, the scope of the proposed rules has been focused on properties that are dedicated nature preserves or managed by the Division of Nature Preserves. The Commission may not adopt a rule that substantially differs from the version published in the *Indiana Register* unless it is a logical outgrowth of the proposed rule as supported by written comments. IC § 4-22-2-29(b). Expansion of the scope at final adoption

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<sup>1</sup> As currently defined, exempted from a “DNR property” are public freshwater lakes; navigable waterways; and buildings or grounds (other than those of the Indiana state museum) not located at recreational, natural, or historic sites. 312 IAC § 8-1.5-6(b)

beyond nature preserves may not be a logical outgrowth, and inclusion of all easements in language given final adoption could jeopardize the entire rule adoption.

Discussed during the public hearing was the application of licensure requirements in 312 IAC § 8-2-15 to dedicated nature preserves that are owned by land trusts. 312 IAC § 8-2-15 governs the use of an area within a DNR property that is open to the public by a person to conduct a certain activity, such as public meeting, parade, demonstration, ceremony, contest, competition, sporting activity, or other special event. Subsection (b) requires an application be submitted 30 days in advance of the proposed event. Jason Kissel agreed that “most of the events fall under the guidelines of the Master Plan, but the Master Plan doesn’t dissolve” the license requirement. He urged that land trusts should be given relief from these licensure requirements.

As posted in the *Indiana Register*, the current proposal would not amend 312 IAC § 8-2-15. The Department or the Commission may wish to support a license exemption or general license to address the conduct of events by the fee owner. In addition to assuring the parameters of the Nature Preserves Act are not violated, an exemption or general license should assure that activities are managed consistently with expectations for real estate which bears the imprimatur of a “DNR property”.

Both the Laycock suggestion and the Kissel suggestion may warrant further review. The DNR Property Use Committee, an informal group consisting of Department land-holding Divisions and the Division of Law Enforcement, has assisted regularly in drafting rule amendments to 312 IAC 8. The Commission could request that the DNR Property Use Committee consider and make recommendations as to either or both: (1) extending to the fee owner of any “DNR property”, which is the result of a DNR leasehold, consent similar to what is established in LSA Document #12-218 for the fee owner of a dedicated nature preserve owned by other than the State of Indiana; and (2) exploring an exemption or general license, with respect to 312 IAC § 8-2-15, for activities by a fee owner on a DNR property owned by other than the State of Indiana.

***Recommendation and Suggestion:***

(A) The Hearing Officers recommend the Natural Resources Commission give final adoption to amendments posted in the Indiana *Register* for LSA Document #12-218 as set forth in Exhibit A.

(B) The Hearing Officers suggest the Commission request the DNR Property Use Committee to consider and make recommendations to the DNR Director and to the Commission with respect to:

(1) extending to the fee owner of any “DNR property”, which is the result of a DNR leasehold, consent similar to what is established in LSA Document #12-218 for the fee owner of a dedicated nature preserve owned by other than the State of Indiana; and

(2) establishing an exemption or general license, with respect to 312 IAC § 8-2-15, for activities by a fee owner on a DNR property owned by other than the State of Indiana.

Dated: August 15, 2012

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Jennifer M. Kane  
Hearing Officer

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Stephen L. Lucas  
Hearing Officer

**EXHIBIT A**

**TITLE 312 NATURAL RESOURCES COMMISSION**

**Final Rule**

LSA Document #12-218(F)

**DIGEST**

Amends 312 IAC 8-1-3, 312 IAC 8-2-3, 312 IAC 8-2-4, and 312 IAC 8-2-10, which governs the use of DNR properties, to address the management of nature preserves and other properties managed by the Division of Nature Preserves, to require written consent of the fee owner before the Commission may establish fees, entrance and exit sites, authorize hunting, or similar other conditions on usage for dedicated nature preserves that are not owned by the state of Indiana, to clarify that restrictions on public use of a nature preserve apply to properties owned by the state of Indiana and managed by the Division of Nature Preserves but not yet dedicated as a nature preserve, and to make other technical changes. Effective January 2, 2013.

**312 IAC 8-1-3; 312 IAC 8-2-3; 312 IAC 8-2-4; 312 IAC 8-2-10**

SECTION 1. 312 IAC 8-1-3 IS AMENDED TO READ AS FOLLOWS:

**312 IAC 8-1-3 Entrance and use requirements; firewood**

**Authority: IC 14-10-2-4; IC 14-11-2-1**

**Affected: IC 14-31-1**

Sec. 3. (a) The commission may, in a master plan or by resolution, establish any of the following:

(1) Fees for:

(A) entrance into a DNR property; or

(B) a particular use within a DNR property.

(2) Entrance and exit sites for a DNR property.

(3) Conditions upon or prohibitions against particular uses within a DNR property or a portion of a DNR property.

(b) In addition to any requirement established under subsection (a), a person may bring firewood into or possess firewood on a DNR property only if the firewood is one (1) of the following:

(1) Bundled and accompanied by a federal compliance stamp issued by the United States Department of Agriculture, Animal and Plant Health Inspection Service (APHIS).

(2) Bundled and accompanied by a state compliance stamp issued by the department's division of entomology to the firewood vendor from whom the wood was purchased.

(3) Inspected and certified by the department's division of entomology and plant pathology and transported for sale or distribution into a DNR property by either of the following:

(A) A state-certified concessionaire.

(B) The department.

(4) Consisting of kiln-dried construction lumber.

(5) Consisting of logs, timber, or another part of a tree with all bark removed.

(c) The following definitions apply throughout this section:



- (1) "Firewood" means kindling, logs, boards, lumber, timber, and any part of a tree that is in a form and size appropriate for use as fuel. Logs cut into lengths at least four and one-half (4 1/2) feet long are not firewood.
- (2) "Kiln-dried construction lumber" means processed boards cut and dried to remove all bark.

**(d) For a nature preserve dedicated under IC 14-31-1, if the fee owner is other than the state of Indiana, the department must obtain written consent from the fee owner before the commission establishes a requirement under subsection (a).** *(Natural Resources Commission; 312 IAC 8-1-3; filed Oct 28, 1998, 3:32 p.m.: 22 IR 738, eff Jan 1, 1999; readopted filed Nov 17, 2004, 11:00 a.m.: 28 IR 1315; readopted filed Mar 25, 2010, 2:58 p.m.: 20100421-IR-312100037RFA; filed Feb 16, 2012, 11:34 a.m.: 20120314-IR-312110421FRA)*

SECTION 2. 312 IAC 8-2-3 IS AMENDED TO READ AS FOLLOWS:

**312 IAC 8-2-3 Firearms, hunting, and trapping Version b**

Authority: IC 14-10-2-4; IC 14-11-2-1; IC 14-22-2-6

Affected: IC 14-22-11-1; IC 35-47-2

Sec. 3. (a) A person must not possess a firearm or bow and arrows on a DNR property unless one (1) of the following conditions apply:

- (1) The firearm or bow and arrows are:
  - (A) unloaded and uncocked; and
  - (B) placed in a case or locked within a vehicle.
- (2) The firearm or bow and arrows are possessed at, and of a type designated for usage on:
  - (A) a rifle;
  - (B) a pistol;
  - (C) a shotgun; or
  - (D) an archery; range.
- (3) The firearm or bow and arrows are being used in the lawful pursuit of either of the following:
  - (A) A wild animal on a DNR property authorized for that purpose.
  - (B) A groundhog as authorized under a license.
- (4) The person possesses a handgun on a DNR property other than a reservoir owned by the U.S. Army Corps of Engineers or Falls of the Ohio State Park:
  - (A) with a valid unlimited license to carry a handgun:
    - (i) issued under IC 35-47-2-3; or
    - (ii) recognized under IC 35-47-2-21(b); or
  - (B) pursuant to an exemption to handgun licensure requirements as authorized under IC 35-47-2-2.

(b) Except as provided in subsection (a)(1) or (a)(4), a firearm or bow and arrows may not be possessed on DNR properties within any of the following:

- (1) A nature preserve **or another property administered by the division of nature preserves** unless hunting is authorized under subsection (d).
- (2) A property administered by the division of state museums and historic sites.
- (3) A campground.
- (4) A picnic area.
- (5) A beach.
- (6) A service area.
- (7) A headquarters building.
- (8) A hunter check station.

(9) A developed recreation site.

(c) A person must not discharge a firearm or bow and arrows on a DNR property except as follows:

- (1) As authorized for a law enforcement officer.
- (2) In the lawful defense of persons or property.
- (3) Under a department permit that authorizes the discharge.
- (4) As authorized at a shooting range.
- (5) In the lawful pursuit of wild animals. The exception provided in this subdivision does not apply within two hundred (200) feet of any of the following:
  - (A) A campsite.
  - (B) A boat dock.
  - (C) A launching ramp.
  - (D) A picnic area.
  - (E) A bridge.

(d) A person may hunt on the following DNR properties:

- (1) A state forest administered by the division of forestry, including a portion of a state forest that is a nature preserve.
- (2) A reservoir property administered by the division of state parks and reservoirs.
- (3) A wildlife area administered by the division of fish and wildlife, including a portion of a wildlife area that is a nature preserve.
- (4) A nature preserve ~~not otherwise approved for hunting under this subsection or another property administered by the division of nature preserves~~, if approved in a written authorization by:
  - (A) the director of the division of nature preserves; **and**
  - (B) **the owner of the nature preserve, if the owner is other than the state of Indiana.**

(e) A person hunting on any of the areas described in subsection (d) must do the following:

- (1) Comply with all federal and state:
  - (A) hunting;
  - (B) trapping; and
  - (C) firearms;

laws.

(2) On a fish and wildlife area and a reservoir property, obtain a one (1) day hunting permit and record from a checking station. The person must:

- (A) retain the permit and record card while in the field for the authorized date; and
- (B) as directed, return them to the department.

(3) Refrain from hunting on a nature preserve if prohibited by signage posted at the site.

(f) Unless otherwise posted or designated on a property map, a person must not place a trap except as authorized by a license issued for a property by an authorized representative. This license is in addition to the licensing requirement for traps set forth in IC 14-22-11-1.

(g) A person must not run dogs, except:

- (1) during the lawful pursuit of wild animals; or
- (2) as authorized by a license for field trials or in a designated training area.

A property administered by the division of fish and wildlife may be designated for training purposes without requiring a field trial permit. Only dogs may be used during field trials on a DNR property, except where authorized by a license on a fish and wildlife property.

(h) A person must not construct or place a tree blind or other hunting blind except under 312 IAC 9-3-3 and 312 IAC 9-4-2.

(i) The following terms apply to the use of shooting ranges:

(1) A person must not use a shooting range unless the person is:

(A) at least eighteen (18) years of age; or

(B) accompanied by a person who is at least eighteen (18) years of age.

(2) A person must:

(A) register with the department; and

(B) pay any applicable fees;

before using a shooting range.

(3) Except as otherwise provided in this subdivision, a person must shoot only at paper targets placed on target holders provided by the department. An authorized representative may approve the use of alternative targets on a supervised shooting range if the department determines a hazard to public safety would not result.

(4) A person must fire downrange and take reasonable care to assure any projectile is stopped by the range backstop.

(5) Shot not larger than size 6 must be used on a shotgun range.

(6) A person must not:

(A) discharge a firearm using automatic fire;

(B) use tracer, armor-piercing, or incendiary rounds;

(C) play on, climb on, walk on, or shoot into or from the side berms; or

(D) shoot at clay pigeons, except on a site designated for shooting clay pigeons.

Glass and other forms of breakable targets must not be used on a shooting range.

(7) A person must dispose of the targets used by the person under section 2(a) of this rule.

(8) Permission must be obtained from the department in advance for a shooting event that involves any of the following:

(A) An entry fee.

(B) Competition for any of the following:

(i) Cash.

(ii) Awards.

(iii) Trophies.

(iv) Citations.

(v) Prizes.

(C) The exclusive use of the range or facilities.

(D) A portion of the event occurring between sunset and sunrise.

(9) On a field course, signs and markers must be staked. Trees must not be marked or damaged.

(j) A person must not take a reptile or amphibian unless the person is issued a scientific purposes license under 312 IAC 9-10-6. Exempted from this subsection are:

(1) eastern snapping turtles;

(2) smooth softshell turtles;

(3) spiny softshell turtles;

(4) bullfrogs; and

(5) green frogs;

taken under 312 IAC 9-5-6 from a DNR property where hunting or fishing is authorized.

(k) A person must not possess lead shot while hunting mourning doves on a DNR property. *(Natural Resources Commission; 312 IAC 8-2-3; filed Oct 28, 1998, 3:32 p.m.: 22 IR 739, eff Jan 1, 1999; filed Nov 5, 1999, 10:14 a.m.: 23 IR 553, eff Jan 1, 2000; filed Jun 17, 2002, 4:13 p.m.: 25 IR 3714; filed Sep 19, 2003, 8:14 a.m.: 27 IR 456; readopted filed Nov 17, 2004, 11:00 a.m.: 28 IR 1315; filed Sep 14,*

2005, 2:45 p.m.: 29 IR 461, eff Jan 1, 2006; filed Jul 11, 2006, 9:04 a.m.: 20060802-IR-312060009FRA; filed Sep 6, 2007, 12:20 p.m.: 20071003-IR-312070023FRA; filed Mar 11, 2008, 9:34 a.m.: 20080409-IR-312070449FRA; filed Mar 12, 2010, 1:25 p.m.: 20100407-IR-312090470FRA, eff Jan 1, 2011; readopted filed Mar 25, 2010, 2:58 p.m.: 20100421-IR-312100037RFA; filed Feb 6, 2012, 3:07 p.m.: 20120307-IR-312110442FRA, eff Jan 1, 2013)

SECTION 3. 312 IAC 8-2-4 IS AMENDED TO READ AS FOLLOWS:

**312 IAC 8-2-4 Fishing**

**Authority: IC 14-10-2-4; IC 14-11-2-1**

**Affected: IC 14-22-11-1; IC 14-31-1**

Sec. 4. (a) A person must comply with all federal and state fishing laws.

(b) Except on the waters of a reservoir property administered by the division of state parks and reservoirs, a person who is on a waterway must not:

- (1) clean or process fish; or
- (2) possess fish that have been cleaned or processed.

(c) A person must not fish in a nature preserve dedicated under IC 14-31-1 **or another property administered by the division of nature preserves**, except as follows:

- (1) At a site posted to authorize fishing.
- (2) From a boat in a river, stream, or lake where access to the waterway was lawfully obtained outside the nature preserve.
- (3) In a nature preserve that is also a fish and wildlife area.

*(Natural Resources Commission; 312 IAC 8-2-4; filed Oct 28, 1998, 3:32 p.m.: 22 IR 740, eff Jan 1, 1999; filed Nov 5, 1999, 10:14 a.m.: 23 IR 554, eff Jan 1, 2000; readopted filed Nov 17, 2004, 11:00 a.m.: 28 IR 1315; errata filed Jun 2, 2009, 10:29 a.m.: 20090624-IR-312090386ACA; readopted filed Mar 25, 2010, 2:58 p.m.: 20100421-IR-312100037RFA)*

SECTION 4. 312 IAC 8-2-10 IS AMENDED TO READ AS FOLLOWS:

**312 IAC 8-2-10 Preservation of habitat and natural and cultural resources**

**Authority: IC 14-10-2-4; IC 14-11-2-1**

**Affected: IC 14**

Sec. 10. Except as authorized by a license, a person must not do any of the following within a DNR property:

- (1) Molest an animal den or bird nest.
- (2) Collect any wild animal, except as authorized by section 3 or 4 of this rule.
- (3) Damage or collect a plant or pick flowers. Exempted from this subdivision are the following:
  - (A) Berries.
  - (B) Fruits.
  - (C) Nuts.
  - (D) Fallen cones.
  - (E) Mushrooms.
  - (F) Leaves.
  - (G) Greens.

(4) Pick berries, fruits, nuts, fallen cones, mushrooms, leaves, or greens on a nature preserve, **or another property administered by the division of nature preserves**, unless the ~~nature preserve~~ **property** is located at any of the following:

- (A) A state park.
  - (B) A reservoir property.
  - (C) A fish and wildlife area.
  - (D) A state forest.
  - (5) Damage, interfere with, or remove:
    - (A) a work of art;
    - (B) an artifact;
    - (C) a rock or mineral;
    - (D) a shipwreck;
    - (E) an archeological site;
    - (F) a historic site;
    - (G) a building; or
    - (H) a sign.
  - (6) Place or maintain a:
    - (A) structure;
    - (B) device;
    - (C) dock;
    - (D) buoy;
    - (E) ramp; or
    - (F) sign.
  - (7) Use a metal detector, except on a sand, swimming beach as approved by an authorized representative.
  - (8) Rock climb or rappel.
  - (9) Collect firewood on a state park.
  - (10) Dig or excavate any material from the ground.
  - (11) Regardless of whether taken lawfully, sell any material taken from a DNR property. Exempted from this subdivision are materials taken under a license issued by the department that specifically authorizes the sale of the material.
- (Natural Resources Commission; 312 IAC 8-2-10; filed Oct 28, 1998, 3:32 p.m.: 22 IR 742, eff Jan 1, 1999; readopted filed Nov 17, 2004, 11:00 a.m.: 28 IR 1315; readopted filed Mar 25, 2010, 2:58 p.m.: 20100421-IR-312100037RFA)*

SECTION 5. SECTIONS 1 through 4 of this document take effect January 2, 2013.